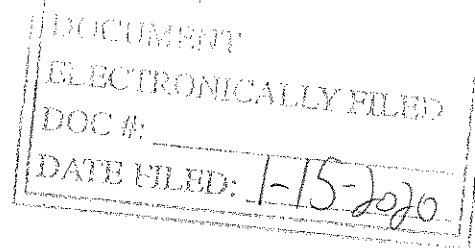


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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UNITED STATES OF AMERICA :

S-2 17 Cr. 548 (PAC)

-v- :

ORDER

JOSHUA ADAM SCHULTE, :

Defendant. :

-----X

HONORABLE PAUL A. CROTTY, United States District Judge:

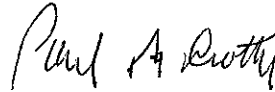
On November 25, 2019, the Government filed a motion in *limine* seeking to introduce, *inter alia*, evidence from Schulte's MCC notebooks. (Gov. Mot. in *limine*, at 27, Dkt 195.) The Defendant opposes the motion and urges that the Government should be ordered to identify the specific MCC notebook documents it intends to introduce so that the Defendant can rebut some of the Government's arguments. (Def. Opp'n at 15, Dkt. 242.)

As this Court has noted, "writing down his thoughts on classified information is not the crime [Schulte] is charged with, but rather it is the transmission of such information." (*See* Dkt. 147.) Nor is the Defendant charged for "spread[ing] misinformation intended to portray Schulte as the victim of an attempted framing by the FBI and CIA." (Gov. Mot. in *limine*, at 27.) The Court continues to believe that the Government may be able to prove transmission without any reference to the contents of Schulte's notebook. The Government has, *inter alia*, evidence of Schulte's posts on social media, the use of encrypted emails to correspond with reporters, photographs and videos of Schulte using contraband cellphones, and testimony from a cooperating witness. (*Id.* at 29-35.)

Accordingly, the Government is directed to identify the specific documents and statements it intends to introduce from the MCC notebooks¹ including the appropriate citation to discovery bates stamps. Given the significant controversy surrounding the notebook evidence, the Government is further directed to explain why the specific documents should be admitted and what the specific evidence will be offered to prove (e.g., Guilty Conscience), as well as why the other non-notebook evidence is insufficient or incomplete.

Dated: New York, New York
January 15, 2019

SO ORDERED



PAUL A. CROTTY
United States District Judge

¹ The Government, without identifying the specific statements, appears to assume that Schulte's draft writings in a notebook constitute "false exculpatory statements" that can be used to prove consciousness of guilt on the Wikileaks charges. (Gov. Mot. at 40.) The Government cites to cases involving false exculpatory statements to the grand jury, false alibis, and false statements to law enforcement where the statements were shown to be false to support this argument.